



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 6, 2007

The Honorable James G. Phinizy, Chairman
House Environment & Agriculture Committee
Room 303, Legislative Office Building
Concord, New Hampshire 03301

RE: HB234, establishing a committee to study state environmental laboratory fees and services.

Dear Chairman Phinizy:

The Department of Environmental Services (DES) supports HB234 that establishes a committee to study state environmental laboratory fees and services.

RSA 131:3-a sets the schedule of tests and fees the DES laboratory is allowed to charge for both the analyses required by the federal Safe Drinking Water Act (SDWA) and all other tests offered to the lab's public clients. This includes tests for programs such as the Volunteer Lake Assessment Program (VLAP), Volunteer River Assessment Program (VRAP), and public swimming beach and pool samples, as well as those tests for special projects and private homeowners. Since RSA 131:3-a was last amended in 1999, the lab has added new capabilities to offer testing for parameters that are not included on the current fee schedule, while other tests are no longer performed or are bundled in a different way. The fee schedule also needs to be updated to reflect the Legislative Budget Assistance's (LBA) recommendation that fees charged to all the lab's clients be on a single schedule. Currently, the fees charged to the Department's programs and to other state agencies are calculated using an in-house cost allocation system; these fees have not been updated since 2003.

Since the lab's legislatively set fee schedule was last reviewed, many changes have occurred with the net result of increased laboratory operating costs:

1. The cost of laboratory consumables, equipment and equipment repairs increases each year. Although the lab works with the Department of Administrative Services (DAS) to negotiate pricing on as many items as possible, the overall cost trend is upward.
2. Although lab staffing levels have remained at 1999 levels or below, salaries and especially benefits have increased substantially.
3. The laboratory wing at 29 Hazen Dr. recently underwent a major addition and renovation project. The DES lab pays rent to the State for its share of lab space; DES incurred a 50% rent increase in FY 2006.
4. The lab is frequently asked to undertake new projects in response to federal, State or Department program initiatives, usually with no associated funding source.
5. The laboratory is accredited by the National Environmental Laboratory Accreditation Conference (NELAC). The costs incurred to meet the quality assurance requirements for this prestigious accreditation are expensive.

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In 2005, HB135 created a commission to study funding sources for State laboratories. During the meetings, DES provided resource, financial and test information to the study committee. In its final draft report dated October 14, 2005, the commission proposed several recommendations for consideration for future legislative action. There are five recommendations relevant to the DES laboratory:

1. Some lab fees are in rule, while others are in law. To be consistent, a uniform process should be used to set fees across all relevant agencies.
2. A mechanism should exist by which the legislature should track the balance and the use of funds in the DES equipment fund.
3. Laboratory tests are an important part of state service and mission. Some important tests are only done by these labs, and nowhere else in the State. It is vital to maintain the labs and the skilled personnel to operate them. For the legislature to know the full costs this operation imposes, there should be separate PAUs for the lab operations. These should not be blended with other department costs. Where there is a revenue side, it should be clearly delineated so that the charges can be a true reflection of the costs.
4. Agencies should be required to track the number and cost of each test.
5. Agencies should be required to continue to track the source of funds and to review, at least biennially, the fees which they set for each test.


The DES lab currently has a separate PAU where all costs and revenues are delineated. The lab annually tracks funding sources, the number of tests performed and calculates a cost per test. The LBA reviews DES's financial practices including the Department's use of the Laboratory Equipment Fund. DES agrees with the committee recommendation that fees charged should be review at least biennially.

In the 2006 session, HB1419 established a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees for such tests collected by DES. A report from this commission is due by November 2007.

DES supports this legislation to establish a committee to study state laboratory water tests and fees and hopes that at least some of the recommendations made by the HB 135 study committee can be further considered within the scope of the new committee.

If you have any questions or need additional information, please contact Assistant Commissioner, Michael Walls, Laboratory Administrator, Patricia Bickford or me at 271-3503.

Sincerely,


Thomas S. Burack
Commissioner

cc: Representative Derek Owen